

1 BEFORE THE WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

2  
3 ALVIN ALEXANDERSON; DRAGONSLAYER,  
4 INC.; and MICHELS DEVELOPMENT L.L.C.,

Case No. 04-2-0008

5 Petitioners,

**ORDER FINDING CONTINUING  
NONCOMPLIANCE AND INVALIDITY**

6  
7 v.

8 CLARK COUNTY,

9  
10 Respondent.  
11  
12

13 **I. SYNOPSIS**

14 THIS Matter came before the Board at a compliance hearing on October 22, 2008. The  
15 Court of Appeals, Division II, reversed the Board's determination that it lacked subject-  
16 matter jurisdiction on the basis that the Memorandum of Understanding (MOU) between  
17 Clark County and the Cowlitz Tribe (Tribe) constitutes a *de facto* comprehensive plan  
18 amendment. After remand to the Board, the Board found that Clark County had not  
19 provided for early and continuous public participation in the adoption of the MOU in violation  
20 of RCW 36.70A.020(11), RCW 36.70A.035, RCW 36.70A.140, and its own code provisions.  
21 The Board also declared the MOU substantially interfered with the GMA's public  
22 participation goal and imposed invalidity.  
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25 That Board decision was also appealed by the County. The Thurston County Superior  
26 Court affirmed the Board and an appeal of the Superior Court's decision is pending before  
27 the Court of Appeals.  
28

29 On January 29, 2008, the Clark County Board of Commissioners adopted a resolution  
30 providing that unless the Order was overturned by the courts, the County would not enforce  
31 the MOU's provisions. On February 20, 2008, the Board issued an Order Finding  
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1 Continuing Noncompliance. The Board found the County's resolution did not cure the non-  
2 compliance since it neither repealed the MOU nor adopted it in accordance with the public  
3 participation requirements of the Growth Management Act (GMA).

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5 Since that decision was issued, the County has held three public meetings to hear  
6 suggestions for how the MOU could be improved or revised, but has not completed the  
7 process set out in its code provisions for adopting or amending comprehensive plan  
8 amendments. Therefore, the Board finds the MOU continues not to comply with the GMA  
9 and substantially interferes with the GMA's public participation goals. The Board rejects  
10 Petitioners' request that due to the County's continuing noncompliance the Board  
11 recommend sanctions be imposed by the Governor.  
12

## 13 14 II. RELEVANT PROCEDURAL HISTORY

15 The Petition for Review in this case was filed on May 3, 2004 and challenged the adoption  
16 of Clark County Resolution No. 2004-03-02. That resolution approved the Memorandum of  
17 Understanding (MOU) between Clark County and the Cowlitz Indian Tribe concerning  
18 certain property that the Tribe seeks to have placed into trust status. The MOU was adopted  
19 to address use of the property once it is no longer in the County's jurisdiction by virtue of its  
20 trust status. On July 23, 2004, this Board entered an order dismissing the petition based on  
21 lack of subject-matter jurisdiction.<sup>1</sup> The Board's order was appealed to the Thurston County  
22 Superior Court. The Superior Court affirmed the Board.<sup>2</sup> Petitioners then appealed to the  
23 Court of Appeals, Division II. The Court of Appeals reversed the Board's determination that  
24 it lacked subject-matter jurisdiction on the basis that the MOU constitutes a *de facto*  
25 comprehensive plan amendment.<sup>3</sup> The case was remanded to the Board and on June 15,  
26 2007, this Board found, among other things, that "Clark County did not provide for early and  
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30 <sup>1</sup> Order on Motion for Dismissal, July 23, 2004.

31 <sup>2</sup> Alvin Alexanderson; Dragonslayer, Inc.; and Michels Development, LLC v. the Board of Clark County  
32 Commissioners and the Western Washington Growth Management Hearings Board, Thurston No. 04-2-  
01723-5 (July 1, 2005).

<sup>3</sup> *Alexanderson v. Board of County Commissioners*, 135 Wn. App. 541 (2006).

1 continuous public participation in the adoption of the MOU in violation of RCW  
2 36.70A.020(11), RCW 36.70A.035, and RCW 36.70A.140 and Clark County Code  
3 Ch. 40.560.”<sup>4</sup> The Board also declared the MOU substantially interfered with GMA’s public  
4 participation goal and imposed invalidity.<sup>5</sup>

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6 That Board decision was also appealed by the County. The Thurston County Superior  
7 Court affirmed the Board<sup>6</sup> and an appeal of the Superior Court’s decision is pending before  
8 the Court of Appeals.<sup>7</sup>

9  
10 On January 29, 2008, the Clark County Board of Commissioners adopted Resolution No.  
11 2008-01-18.<sup>8</sup> It provided:

12  
13 Unless the Hearing Board’s June 19, 2007 Order on Motion on Remand is  
14 overturned on further appellate court review, Clark County will not seek to implement  
15 or enforce its provisions.<sup>9</sup>

16 On February 20, 2008, the Board issued an Order Finding Continuing Noncompliance. The  
17 Board found County Resolution No. 2008-01-18 did not cure the non-compliance since it  
18 neither repealed the MOU nor adopted it in accordance with the public participation  
19 requirements of the Growth Management Act (GMA).

20  
21 The County did not file a compliance report as required by the February 20, 2008 order nor  
22 did Petitioners object to this lack of filing. The Board held a compliance hearing on October  
23 22, 2008. At the Board’s request, the County filed a compliance report on November 4,  
24 2008 and Petitioners filed Alexanderson’s Response to County’s Second Compliance  
25 Memorandum on November 14, 2008.

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29 <sup>4</sup> Order on Motions on Remand, June 15, 2007 at 5.

30 <sup>5</sup> Id. at 8.

31 <sup>6</sup> Order Affirming Decision of the Growth Management Hearings Board, Thurston County Superior Court  
Cause No. 07-2-01398-6, December 14, 2007.

32 <sup>7</sup> Clark County Compliance Hearing Memorandum at 1 and Exhibit 3.

<sup>8</sup> Exhibit 4 to Clark County Compliance Hearing Memorandum.

<sup>9</sup> Resolution 2008-01-18, Section 1.

### III. BURDEN OF PROOF

For purposes of board review of the comprehensive plans and development regulations adopted by local government, the GMA establishes three major precepts: a presumption of validity; a “clearly erroneous” standard of review; and a requirement of deference to the decisions of local government.

Pursuant to RCW 36.70A.320(1), comprehensive plans, development regulations and amendments to them are presumed valid upon adoption:

Except as provided in subsection (5) of this section, comprehensive plans and development regulations, and amendments thereto, adopted under this chapter are presumed valid upon adoption.

This same presumption of validity applies when a local jurisdiction takes legislative action in response to a noncompliance finding; that legislative action is presumed valid. The only time that the burden of proof shifts to the County is when the County is subject to a determination of invalidity.<sup>10</sup> The Board found Clark County’s Memorandum of Understanding with the Cowlitz Tribe invalid because:

If the MOU continues in effect, the ability of the public to have input into the County’s decisions may be nullified, because the trust application process will proceed in reliance upon the MOU without public participation.<sup>11</sup>

Therefore, the County has the burden to demonstrate that the actions it has taken to comply with Board’s January 15, 2007 Order on Motions on Remand and its February 20, 2008 Order Finding Continuing Noncompliance no longer substantially interfere with RCW 36.70A.020(11).<sup>12</sup>

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<sup>10</sup> RCW 36.70A.320(2) and (4).

<sup>11</sup> Order on Motions on Remand at 8.

<sup>12</sup> RCW 36.70A.320(4)  
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1 Additionally, on legislative actions taken by a local jurisdiction in response to a finding of  
2 noncompliance, the statute further provides that the standard of review shall be whether the  
3 challenged enactments are clearly erroneous:

4       The board shall find compliance unless it determines that the action by the state  
5       agency, county, or city is clearly erroneous in view of the entire record before the  
6       board and in light of the goals and requirements of this chapter.

7 RCW 36.70A.320(3)

8 In order to find the County's action clearly erroneous, the Board must be "left with the firm  
9 and definite conviction that a mistake has been made." *Department of Ecology v. PUD1*,  
10 121 Wn.2d 179, 201, 849 P.2d 646 (1993).  
11

12 Within the framework of state goals and requirements, the boards must grant deference to  
13 local governments in how they plan for growth:

14       In recognition of the broad range of discretion that may be exercised by counties and  
15       cities in how they plan for growth, consistent with the requirements and goals of this  
16       chapter, the legislature intends for the boards to grant deference to the counties and  
17       cities in how they plan for growth, consistent with the requirements and goals of this  
18       chapter. Local comprehensive plans and development regulations require counties  
19       and cities to balance priorities and options for action in full consideration of local  
20       circumstances. The legislature finds that while this chapter requires local planning  
21       to take place within a framework of state goals and requirements, the ultimate  
22       burden and responsibility for planning, harmonizing the planning goals of this  
23       chapter, and implementing a county's or city's future rests with that community.

24 RCW 36.70A.3201 (in part).

#### 25 **IV. ISSUE TO BE DISCUSSED**

- 26 1. Has Clark County taken any action to comply with the requirements for public  
27 participation in the adoption of its *de facto* comprehensive plan amendment in the  
28 MOU in order to comply with RCW 36.70A.020(11), RCW 36.70A.035, and RCW  
29 36.70A.140 and Clark County Code Ch. 40.560? <sup>13</sup>  
30 2. Should invalidity be continued?  
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32 <sup>13</sup> Order Finding Continuing Noncompliance at 6 and 7.  
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1 3. Should sanctions be requested?

## 2 3 V. DISCUSSION OF THE ISSUE

### 4 *Noncompliance*

#### 5 **Positions of the Parties**

##### 6 County's Position

7 The County maintains because the MOU is an interlocal agreement with a recognized Tribe  
8 that is a legally sovereign government, as opposed to a traditional comprehensive plan  
9 amendment, it cannot unilaterally revoke the agreement or change its terms. The County  
10 reports that it has met with the Cowlitz Tribe (Tribe) which has agreed to open the MOU for  
11 additional public comment and discuss and consider proposed changes to the agreement,  
12 but has made no commitment to change any provision.<sup>14</sup>

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14  
15 The County reports that it held three public hearings in April 2008 where the public was  
16 encouraged to suggest improvements, additions, deletions or changes to the MOU. The  
17 County relates that most of the public wanted to express opposition and/or support for the  
18 Tribal acquisition of this land or the Tribe's general or proposed uses for the land. The  
19 County explains that County Board members made a list of proposed MOU changes from  
20 the public hearing comments and forwarded them to the Tribe. The Tribe expressed a  
21 willingness to consider a few changes, but was not supportive of others. The County has  
22 asked the Tribe to reconsider some changes and has scheduled a meeting with the Tribe to  
23 discuss them.<sup>15</sup>

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26 Based on the public hearings to date and planned future public meetings, the County asks  
27 for a finding of compliance<sup>16</sup>

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31 <sup>14</sup> Clark County's Second Compliance Hearing Memorandum at 2, 3, 4, and 7.

32 <sup>15</sup> Id. at 5 and 6.

<sup>16</sup> Id. at 7.

1 Petitioners' Position

2 Petitioners argue the only action that the County has taken to comply is to hold three public  
3 meetings. Petitioners contend that the purpose of these meetings was unclear. Therefore,  
4 these meetings did not invoke meaningful public participation.<sup>17</sup>  
5

6 Petitioners assert Clark County has not fulfilled the public participations requirements  
7 delineated in the County code that requires public hearings on the proposed amendment by  
8 the planning commission and the Board of County Commissioners to adopt the MOU as a  
9 comprehensive plan amendment.<sup>18</sup> Petitioners also claim that it is significant that the  
10 County ignored the MOU when it made revisions to its comprehensive plan. According to  
11 Petitioners, the County ignored the MOU and instead sought to de-designate the same  
12 agricultural lands at issue in the MOU, an action the Board found to be noncompliant with  
13 the GMA.<sup>19</sup>  
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15  
16 Petitioners also point out the County has yet to conduct the analysis required by the State  
17 Environmental Policy Act (SEPA) for comprehensive plan amendments.<sup>20</sup>  
18

19 **Board Discussion**

20 The Board's February 20, 2008 Order Finding Continuing Noncompliance stated:

21       The Board's Order on Motions on Remand found that the County had failed to  
22       comply with RCW 36.70A.020(11), RCW 36.70A.035, and RCW 36.70A.140 and  
23       Clark County Code Ch. 40.560 when it adopted the MOU. This finding was  
24       based on the County's stipulation that it had not followed its GMA processes in  
25       approving the MOU, since the County did not believe it was amending its  
26       comprehensive plan.

27       Since the County has not repealed the MOU, the *de facto* comprehensive plan  
28       amendment continues to fail to comply with the public participation requirements  
29       for adoption of such a legislative land use action under the GMA. Resolution No.

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31 <sup>17</sup> Petitioners' Response to County's Second Compliance Memorandum at 2, 3, and 6.

32 <sup>18</sup> Id. at 5.

<sup>19</sup> Id.

<sup>20</sup> Id. at 7.

1 2008-01-18 was not adopted in conformity with the County's public participation  
2 plan either (footnotes eliminated).

3 **Conclusion:** The County has not taken any action to comply with the  
4 requirements for public participation in the adoption of its *de facto* comprehensive  
5 plan amendment in the MOU. It therefore continues to be in non-compliance with  
6 RCW 36.70A.020(11), RCW 36.70A.035, and RCW 36.70A.140 and Clark  
7 County Code Ch. 40.560.<sup>21</sup>

8 The Court of Appeals, Division II, determined that the MOU constitutes a *de facto*  
9 comprehensive plan amendment.<sup>22</sup> The County earlier stipulated that the MOU was  
10 adopted without public participation.<sup>23</sup> CCC 40.560 establishes that amendments to  
11 comprehensive plans are a Type IV process. A Type IV process requires at least one public  
12 hearing conducted by the Planning Commission and one public hearing conducted by the  
13 Board of County Commissioners after the Planning Commission has made its  
14 recommendation according to CCC 40.510.040 (A) and (D) (3). CCC 40.510.040 requires  
15 SEPA analysis before the Board of County Commissioners makes its decision. While three  
16 public hearings have been conducted to solicit changes to the MOU, the County still has not  
17 repealed the MOU or adopted it according to its public participation procedures. The Board  
18 finds it hard to understand how the County can conclude its actions to date comply with the  
19 Board's orders.  
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22 **Conclusion:** The County still has not completed actions needed to comply with the GMA or  
23 its own public participation requirements in the adoption of its *de facto* comprehensive plan  
24 amendment in the MOU. The County continues to be in noncompliance with RCW  
25 36.70A.020(11), RCW 36.70A.140, and CCC 40.560 and 40.510.  
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## 28 *Invalidity*

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31 <sup>21</sup> Order Finding Continued Noncompliance at 5.

<sup>22</sup> *Alexanderson et al. v. WWGMHB et al.*, 135 Wn. App. 541, 551, 144 P.3d 1219, 2006 Wash. App. LEXIS  
32 2285 (Division II, 2006).

<sup>23</sup> Order on Motions on Remand at 5 and 9.



1 Petitioners request that the finding of invalidity be maintained so that reviewing agencies  
2 cannot rely on the MOU and Clark County citizens will not be deprived of the opportunity to  
3 participate in the adoption of the MOU.<sup>24</sup>  
4

5 The June 19, 2007 Order on Remand found Clark County's MOU with the Cowlitz Tribe  
6 invalid because:

7       If the MOU continues in effect, the ability of the public to have input into the  
8       County's decisions may be nullified, because the trust application process will  
9       proceed in reliance upon the MOU without public participation.<sup>25</sup>

10 Since the June 19, 2007 Order on Motions on Remand, the County adopted Resolution No.  
11 2008-01-18 in which the County promised not to implement the MOU. The County also de-  
12 designated the land in question as agricultural lands of long-term commercial significance,  
13 an action which the Board also found noncompliant and invalid.<sup>26</sup> The Board found the  
14 Resolution 2008-01-18 did not achieve compliance because it neither repealed the *de facto*  
15 comprehensive plan amendment nor adopted the *de facto* amendment with the appropriate  
16 public participation process, so the MOU remained non-compliant. The Board has issued  
17 no order lifting invalidity since it was imposed in the June 19, 2007 Order on Remand. Both  
18 of these actions leave the County with a MOU in place that has not been adopted with the  
19 proper public participation process and that substantially interferes with RCW  
20 36.70A.020(11) for the same reasons the Order on Motions on Remand imposed invalidity.  
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24 **Conclusion:** Based on the foregoing, the MOU continues to interfere with RCW  
25 36.70A.020(11) and continues to be invalid.  
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## 27 *Sanctions*

28 Petitioners ask that the Board request sanctions be imposed on the County because the  
29 County is not proceeding in good faith. Petitioner contends the County's lack of good faith  
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31 <sup>24</sup> Id at 8 and 9.

32 <sup>25</sup> Order on Motions on Remand at 8.

<sup>26</sup> See Karpinski v. Clark County, WWGMHB Case No. 07-2-0027c (Final Decision and Order, May 14, 2008).  
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1 effort is exemplified by the County's failure to take any action since the Board's June 2007  
2 Order to comply, its focus on exclusively pursuing its case in the courts, and failure to  
3 submit a compliance report to the Board.<sup>27</sup> At argument, the County says turnover in the  
4 County's prosecutor office caused them to miss the compliance report's deadline.<sup>28</sup>  
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6 RCW 36.70A.330 (3) states,

7 If the board after a compliance hearing finds that the state agency, county, or city  
8 is not in compliance, the board shall transmit its finding to the governor. The  
9 board may recommend to the governor that the sanctions authorized by this  
10 chapter be imposed. The board shall take into consideration the county's or city's  
11 efforts to meet its compliance schedule in making the decision to recommend  
12 sanctions to the governor.

13 The Board disagrees with Petitioners that the County has not taken any action to attempt to  
14 comply with the Board's order since the June 2007 Order. The Board found Resolution No.  
15 2008-01-18 did not cure the MOU's noncompliance with the GMA. However, the Board does  
16 not agree that the County's actions demonstrate a lack of motivation to comply with the  
17 Board's orders.  
18

19 Pursuant to RCW 36.70A.300(3), the County has appealed the Board's decision in the June  
20 19, 2007 Order on Motions on Remand, which is under review by the Court of Appeals,  
21 Division II. The Board also recognizes that the appeal of the Board's May 14, 2008 Final  
22 Decision and Order in *Karpinski* has implications for this case since the outcome of  
23 *Karpinski* affects the land at issue in the MOU. However, there is no evidence in the record  
24 that either court has granted the County a stay or that the County has asked for one, so the  
25 County is obligated to comply with the Board's order within the schedule set out by the  
26 Board.  
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32 <sup>27</sup> Id. at 10 and 11.

<sup>28</sup> Id. at 10 and 11.  
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1 The record shows that the County has held public meetings to solicit suggestions on how to  
2 amend the MOU and scheduled a recent meeting with the Tribe to discuss ways to amend  
3 the MOU. The Board does not find that the notices for these meetings deterred meaningful  
4 public participation. Thus, the record shows the County is continuing to pursue a possible  
5 compliant amendment to the MOU. Nor is there any evidence in the record that the County  
6 has halted a public participation process to do this. Also, while the Board expects the  
7 County to comply with its deadlines for compliance reports, the Board accepts the County's  
8 reason for not submitting its compliance report in a timely way.  
9

10  
11 The Board also recognizes the complexities of working with a sovereign Native American  
12 Tribe and federal government authority.  
13

14 **Conclusion:** Based on the foregoing, the Board will not request sanctions be imposed at  
15 this time.  
16

## 17 VI. FINDINGS OF FACT

- 18 1. Clark County is a county located west of the Cascade Mountains required to plan  
19 according to RCW 36.70A.040.
- 20 2. The Court of Appeals, Division II, has determined that the MOU constitutes a *de facto*  
21 comprehensive plan amendment.
- 22 3. The Board's Order on Motions on Remand found that the County had failed to  
23 comply with RCW 36.70A.020(11), RCW 36.70A.035, and RCW 36.70A.140 and  
24 CCC. 40.560 when it adopted the MOU.
- 25 4. The Board's February 20, 2008 Order Finding Continuing Noncompliance found the  
26 County has not taken any action to comply with the requirements for public  
27 participation in the adoption of its *de facto* comprehensive plan amendment in the  
28 MOU. Therefore the County continues to be in non-compliance with RCW  
29 36.70A.020(11), RCW 36.70A.035, and RCW 36.70A.140 and CCC.40.560.  
30  
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- 1 5. Clark County did not file a compliance report in a timely way as established by the
- 2 Board's February 20, 2008 order.
- 3 6. Clark County filed Second Compliance Memorandum on November 4, 2008 when
- 4 requested by the Board.
- 5 7. Petitioners filed Alexanderson's Response to County's Compliance Memorandum on
- 6 November 14, 2008 as allowed by the Board.
- 7 8. Clark County held three public meetings to solicit public input on the Memorandum of
- 8 Understanding on April 7, 10, and 15, 2008.
- 9 9. There is no evidence in the record that shows Clark County has halted the public
- 10 process.
- 11 10. The County has earlier stipulated that the MOU was adopted without public
- 12 participation.
- 13 11. CCC.40.560 establishes that amendments to comprehensive plans are a Type IV
- 14 process. A Type IV process requires at least one public hearing conducted by the
- 15 planning commission and one public hearing conducted the Board of County
- 16 Commissioners after the Planning Commission has made its recommendation
- 17 according to CCC 40.510.040 (A) and (D) (3).
- 18 12. The County has not held a hearing before the Planning Commission or the Board of
- 19 County Commissioners for the purposes of adopting the MOU as a comprehensive
- 20 plan amendment.
- 21 13. CCC 40.510.040 requires SEPA analysis before the Board of County Commissioners
- 22 makes it decision. The County has conducted no SEPA analysis on the adoption of
- 23 the MOU.
- 24 14. The County has not completed the necessary actions to adopt the MOU as a
- 25 comprehensive plan amendment pursuant to CCC 40.560 and CCC 50.510.040 (A)
- 26 and (D).
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#### 31 Findings Related to Continuing Invalidity

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1 15. The Board has not lifted invalidity since it was imposed by the Board's June 15, 2007  
2 order.

3 16. The Board's June 15, 2007 Order on Remand found, "If the MOU continues in effect,  
4 the ability of the public to have input into the County's decisions may be nullified,  
5 because the trust application process will proceed in reliance upon the MOU without  
6 public participation.  
7

## 8 VII. CONCLUSIONS OF LAW

9 A. The Board has jurisdiction over the subject matter and the parties in this case.

10 B. Petitioners filed objections to a finding of compliance by the deadline established by  
11 the Board.  
12

13 C. The County continues to be in noncompliance with RCW 36.70A.020(11), RCW  
14 36.70A.140, and CCC 40.560 and 40.510.

15 D. The MOU continues to interfere with RCW 36.70A.020(11) and continues to be  
16 invalid.  
17

## 18 VIII. ORDER

19 Clark County must bring its MOU with the Cowlitz Tribe into compliance with the GMA  
20 within 180 days of this order according to the following schedule:  
21

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Item	Date Due
<b>Compliance Due on</b>	<b>July 15, 2009</b>
Statement of Actions Taken and Index to Compliance Record Deadline	July 29, 2009
Objections to a Finding of Compliance Deadline	August 12, 2009
Response to Objections Deadline	August 26, 2009
<b>Compliance Hearing</b>	<b>September 3, 2009</b>

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29 ENTERED this 6th day of January, 2009.  
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32

Holly Gadbow, Board Member

1  
2  
3 James McNamara, Board Member  
4

5  
6 William P. Roehl, Board Member  
7

8 Pursuant to RCW 36.70A.300 this is a final order of the Board.  
9

10 **Reconsideration.** Pursuant to WAC 242-02-832, you have ten (10) days from the  
11 mailing of this Order to file a petition for reconsideration. Petitions for  
12 reconsideration shall follow the format set out in WAC 242-02-832. The original and  
13 three copies of the petition for reconsideration, together with any argument in  
14 support thereof, should be filed by mailing, faxing or delivering the document directly  
15 to the Board, with a copy to all other parties of record and their representatives.  
16 **Filing means actual receipt of the document at the Board office.** RCW 34.05.010(6),  
17 WAC 242-02-330. The filing of a petition for reconsideration is not a prerequisite for  
18 filing a petition for judicial review.

19 **Judicial Review.** Any party aggrieved by a final decision of the Board may appeal the  
20 decision to superior court as provided by RCW 36.70A.300(5). Proceedings for  
21 judicial review may be instituted by filing a petition in superior court according to the  
22 procedures specified in chapter 34.05 RCW, Part V, Judicial Review and Civil

23 **Enforcement.** The petition for judicial review of this Order shall be filed with the  
24 appropriate court and served on the Board, the Office of the Attorney General, and all  
25 parties within thirty days after service of the final order, as provided in RCW  
26 34.05.542. Service on the Board may be accomplished in person, by fax or by mail,  
27 but service on the Board means **actual receipt of the document at the Board office**  
28 within thirty days after service of the final order.

29 **Service.** This Order was served on you the day it was deposited in the United States  
30 mail. RCW 34.05.010(19).  
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